# Summary of Legislation Concerning Sex Offenders, 2009 Session (As of March 12, 2009)

#### **Active Bills**

Bill Number: House Bill 09-1132

Short Title: Using Text Messaging for Unlawful Acts

Sponsors: Representatives Murray and Priola

Status: House Appropriations

Senator Heath

This bill adds text messaging and instant messaging to the list of means to commit the crimes of internet luring of a child, internet sexual exploitation of a child, and harassment. Internet luring a child is a class 4 or class 5 felony, depending on the circumstances. Internet sexual exploitation of a child is a class 4 felony. Harassment is a class 1 or class 3 misdemeanor, depending on the circumstances. The bill also adds text messaging and instant messaging to the means of committing computer dissemination of indecent material to a child, a prohibited act for which a civil penalty may be assessed.

#### Appropriations:

For FY 2009-10, this bill requires a transfer of \$229,175 from the General Fund to the Capital Construction Fund and an appropriation of the same amount to the Corrections Expansion Reserve Fund. The bill also requires appropriations to the Department of Corrections from FY 2010-11 through FY 2013-14. Finally, it requires a General Fund appropriation to the Judicial Branch of \$169,373 and 2.8 FTE.

Bill Number: House Bill 09-1163

Short Title: Child Victim Crimes

Sponsors: Representative C.Gardner

Status: House Appropriations

Senator Romer

This bill makes a number of changes to laws concerning crimes against children. These include:

- adding an element to the crime of internet luring of a child to include instant
  messaging or text messaging to the means by which an actor can communicate a
  subsequent prohibited description of sexual conduct to a child under the age of 15
  or an individual the actor believes to be under the age of 15;
- clarifying that the crime of internet sexual exploitation of a child applies to an individual the actor knows or believes to be under the age of 15 and at least four years younger than the actor;
- clarifying that previous convictions for child abuse in Colorado or another state apply to the aggravated sentencing provisions for that offense;
- making other clarifications with regard to extraordinary aggravating conduct related to child abuse; and
- modifying the crime of sexual exploitation of a child by possession of sexually exploitative material to include the possession of one video recording of child pornography. Currently, it is a class 4 felony to possess more than 20 different items of sexually exploitative material and, under the bill, one video recording would essentially equal the current 20 items.

### Appropriations:

For FY 2009-10, this bill requires a transfer of \$114,587 from the General Fund to the Capital Construction Fund and an appropriation of the same amount to the Corrections Expansion Reserve Fund. The bill also requires appropriations to the Department of Corrections from FY 2010-11 through FY 2013-14. Finally, it requires a General Fund appropriation to the Judicial Branch of \$109,547 and 1.8 FTF.

## Summary of Legislation Concerning Sex Offenders, 2009 Session (As of March 12, 2009) (Cont.)

#### Postponed Indefinitely

Bill Number: House Bill 09-1087

Sponsors: Representative Green

(None)

Current law allows a victim of sexual offense on a child no more than six years to file a civil claim for damages against the perpetrator. The six years begin running when the incident occurs or when a disability is removed (i.e., a minor reaches the age of 18 or a person declared mentally incompetent is assigned a legal guardian to act on his or her behalf). This is when the cause of action accrues. This bill would have modified when the cause of action accrues to be six years after the date on which the victim recognizes the existence and cause of his or her injury and tells someone other than a licensed medical professional. The bill only would have applied to offenses for which the statute of limitations had not yet expired by the effective date.

Short Title: Child Sex Offense Civil Action Accrual

Status: Postponed Indefinitely

### Appropriations:

Additional civil cases filed would have the potential to increase expenditures for the Judicial Branch, however, it is impossible to determine the exact amount of any increase. The impact to the branch would have depended on the number of eligible cases and how many individuals decided to file them. If a significant number of new cases would have been filed, increased costs would have been addressed through the annual budget process.

Bill Number: House Bill 09-1144

Sponsors: Representative Bradford

Senator Scheffel

This bill would have required a court to impose a mandatory minimum sentence of incarceration of at least 20 years, but no more than 30 years, for an offender who commits a sexual assault on a child when the child is:

- 14 years old or younger; and
- at least 7 years younger than the offender at the time of the offense.

Current law allows for indeterminate sentencing of many serious sex offenders for a maximum period of the offender's natural life. This bill would not have changed the maximum sentence; it would merely have imposed a minimum sentence. In the event that an offender sentenced pursuant to this bill was released on parole, the State Board of Parole would have been required to keep the offender on parole for the remainder of the offender's life.

Short Title: Mandatory Minimum Child Sex Offense

Status: Postponed Indefinitely

## Appropriations:

For FY 2009-10, this bill would have required a transfer of \$18,677,759 from the General Fund to the Capital Construction Fund and an appropriation of the same amount to the Corrections Expansion Reserve Fund. The bill also would have required appropriations to the Department of Corrections from FY 2010-11 through FY 2013-14. Finally, the Judicial Branch would have required a General Fund appropriation reduction for FY 2009-10 of \$528,609 and 8.9 FTE.